

THE CONTRAVENTIONAL FORESTRY PHENOMENON

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ABSTRACT

In the work "Our Forests and Our Destiny" the renowned biologist Emil Pop highlights the importance of the forest, showing that "Forest is a capital of wealth and beauty that crosses the millennium with man and can deviate for good the destiny of mankind."

Conservation and development of the forestry fund has become necessary, given the role and functions of the forest, both as a natural resource that is hard to regenerate and as a means of maintaining the ecological balance or as a living environment for the forestry and forest ecopoints.

RESULTS AND DISCUSSIONS

The analysis of the special role of the forest fund and the dangers it is exposed to shows that the activity on the development, management, preservation and protection of the forest is an issue that exceeds the national interest.

The improvement of the Romanian legal system, according to the new realities and requirements of the economic, social and political life, as well as the tendency to align the national legislation with the principles and norms of international law applicable in the European Union, included the forestry legislation.

As a result, the forestry legal framework is called upon to protect and defend the Romanian forestry patrimony, to ensure the observance of the forestry regime in the entire management, management and exploitation of the wood, to protect the public and private interests and to guarantee the guarantee of sustainable management of the forest fund as a whole.

Every society exists and evolves on the basis of laws, norms and rules that form in their entirety a normative system that regulates the social relations that arise between individuals as individuals or between them and legal persons.

The basic normative act for the forestry sector is Law no. 46/2008

Forestry Code. In its content, the issues of administration, management, integrity and development of the national forest fund, as well as responsibilities and sanctions, are regulated. Law 171/2010 on the establishment and sanctioning of forest contraventions as amended by Law 134/2017 represents the special regulation of sanctioning contraveniently of acts that affect the forestry fund.

The definition of the offense is of particular importance, both for the legal bodies to establish the facts belonging to this category, as well as for the practical activity of finding and sanctioning those who commit them.

Contravention is an illicit act, that is, an act contrary to the legal norms governing the conduct of man. By establishing or forbidding certain conduct, the legal rules of administrative law aim at achieving or defending personal or general interests of society.

The regulation of the contravention system in Romania has been constantly changing since the first trio-point division of criminal law in the Organic Regulations until the appearance of the OG law. No.2 of 12 July 2001 in force.

The procedure for legislating the sanctioning regime in the forestry sector was marked by the historical conditions

as well as by the economic and social development.

The contraventional forestry law protects social values against relatively serious violations of the forestry fund. By excellence, the law of contraventional forestry, together with the criminal law, is the type of law that accurately describes the facts that attract its incidence. The purpose of the offense law is to defend social values that are not protected by criminal law, hence the subsidiary nature of criminal law.

The social response to the illicit acts committed against the forest fund, in order to be effective, must be carried out on several levels, namely political, educational, economic and legal. Of the various types of social reaction, an important place is the application of legal sanctions to those who do not comply with the legal norms.

In order to restore order, the legislator delegated to its competent bodies the power to impose sanctions on recipients who violate the precepts of forest law contravention.

The contravention sanction is a measure of coercion and re-education, which applies to the offender in order to correct it and to prevent the committing of contraventions.

By adopting Law 171/2010, acts of contraventional nature that violate the forestry regime have been established and sanctioned, thus improving the main instrument for sanctioning violations of the forestry regime, contributing to discouraging aggressions on the national forestry fund.

According to art. 1 par. 2 Law 171/2010 the sanctions applicable to forestry offenses are:

-main contravention sanction - amend;

-complementary sanction - the seizure or confiscation of goods destined, used or resulting from the commission of forest contraventions or restraining the permit or attestation, as the case may be;

Areas are regulated in which the non-observance of the obligations

established by Law 171/2010 constitutes a contravention being sanctioned:

- management of the forest fund;
- modding of potions;
- integrity, security and protection of the forest fund;
- regeneration of forests and valorization of wood mass;
- exploitation of wood and harvesting of non-timber products;
- control of the application of the rules on the circulation of wood materials, warehouses and woodworking installations;

The finding and sanctioning of forest contraventions are activities that must be recorded in an official document, which is usually called a verbal record.

Minutes of finding a contravention is an administrative act by which the illicit act and the offender are individualized.

The verbatim report is an official act because it is drawn up by a founding agent acting in his capacity as a representative of the state.

According to art. 21 of O.G.no. 2/2001, the body that applies the sanction for contravention is the determining agent, unless the normative document establishing and sanctioning contravention stipulates otherwise. The sanction shall be applied within the limits of the normative act and shall be proportionate to the degree of social danger of the deed, taking into account the circumstances in which the deed was committed, the manner and means of committing it, the purpose pursued, the follow-up produced, as well as the personal circumstances of the offender and other data recorded in the report.

The contravention sanctions in the forestry field are established and applied taking into account the degree of social danger of the act and the risk of the offender. With regard to seizure, in most cases of wood, the person empowered to impose the sanction also has the confiscation of goods destined, used or resulting from contraventions.

According to art. 24 paragraph (1) letter b of Law 171/2010 has the quality

and the determining agent, as it is clear from the text of the law - "They have the obligation and the right to carry out the control, to establish forest contraventions and to apply the sanctions stipulated the following law enforcement agents: the forestry staff of the National Forestry Board - Romsilva and its forestry-specific territorial structures - for the forestry offenses committed in the forestry fund that it administers / provides forestry services or which it takes over for administration / insurance in forestry services, as well as exercising control over the application of the rules on the circulation of wood materials".

The contravention process has three procedural phases: the stage of finding the contravention and the application of the contravention sanction, the stage of the trial and the phase of enforcement of the contravention sanctions.

The stages of the contravention process are moments or divisions of the process, in which certain subjects carry out successive activities provided by law. The stage of finding the contravention and applying the contravention sanction is the first stage of the contravention process and consists in the activity of determining the contravention and the provision of the contravention sanctions provided by the law for this. At this stage, as a rule, the following persons are involved: the founder, the offender and the witnesses. As regards the participants in the first stage of the contravention procedure, the investigating agent and the offender are the most important. The phase of the trial consists of all the procedural and procedural acts that may be carried out before the court, starting with the formulation of the contravention complaint and until the date of the irrevocable stay of the court decision.

The enforcement phase of the contravention sanctions consists of the activities carried out after the act of applying the sanctions for contravention acquires irrevocable character, namely

forced execution of the contravention sanctions.

It should be noted that, in addition to Government Ordinance 2/2001 on the legal regime of contraventions, there are very few specific areas at national level for which there is a special *stricto sensu* law, which regulates the contravention regime in the respective field.

The size of the sector is related to the total surface area of Romania's national forest fund, about 6.5 million ha representing 27.8% of the country's surface area in the year 2015, according to data provided by the National Institute of Statistics, no significant changes to date. It should be noted that the forest fund is owned both in public property and in private ownership, in approximately equal proportions. The economic magnitude of the sector, as shown by the World Bank's functional analysis of the forest sector in Romania in 2012, shows a contribution of the forestry sector, including the wood industry, to GDP varied between 3.5 and 4.5% over the past ten years - figures confirmed at the end of 2016 by a study by PwC Romania - the sector being an important employer, especially in rural areas (although values have fallen from 235,000 in 2000 to about 161,000 employees in 2009), the furniture industry accounting for some 80,000 employees, followed by woodworking and the National Forestry Directorate - Romsilva.

The Forestry Code, Law 46/2008 republished, is the normative act that currently governs the forestry sector, our analysis referring to the law on contravention in the sector, namely Law 171/2010 on the establishment and sanctioning of forest contraventions.

The law on forest contraventions in 2010 was the subject of four legislative amendments for modification and completion, the only one which materialized but was the Government's initiative, through Government Emergency Ordinance no. 51/2016 for amending and completing the Law 171/2010, an ordinance which brought

substantial modifications and additions, in fundamental terms, for 31 articles out of the 46 of the law, introducing also some new articles, the most recent amendment being made by the Law 134/2017.

The defense and protection of the forest fund is a particularly complex activity, which involves the use of specific methods and means, aimed at preventing, discovering and combating both harmful natural phenomena and antisocial facts.

The management of forestry activities at the national level is carried out through the fundamental political-legal settlement, the Constitution of Romania, laws, emergency ordinances and Government decisions, but also by normative acts elaborated by the relevant ministry. The extent of the criminal and contraventional phenomenon in the forestry sector in the last 10 years has led

to a considerable reduction of the forest fund, which has become a constant problem for the whole society.

Forests, the main element of the national forest fund structure due to their functions, represent a very rich heritage of mankind and play a particularly important role in maintaining the natural balance.

The defense of the forestry domain against these illicit activities requires thorough studies by managers and specialists, aiming, inter alia, to systematize these damaging facts for national wealth according to certain criteria.

Investigating offenses and contraventions that damage the forestry heritage is a complex issue of major importance in the activity of the competent institutions in the detection and investigation of these illicit deeds.

CONCLUSIONS

The prevention and combating of the criminal and contraventional phenomenon is a major concern of the public order and also of the specialized personnel of the Romsilva National Forestry Regiment.

As a final note, the main task of our generation must be to preserve the environment and its resources in order to convey the natural heritage and next generations.

Forests represent and represent a high environmental component, thanks to the raw materials they provide, the possibilities of regeneration, as well as the numerous services with a protective character that they offer on the climate, the soil, the hydrological regiments, the positive hygienic- health, environment friendly life of plants and animals.

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